IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1712 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

M EHSANA DISTRICT CO-OP MILK PRODUCERS UNION LTD

Versus

SOMABHAI R RABARI C/O SECRETARY

Appearance:

1. Special Civil Application No. 1712 of 2001

MR AJAY R MEHTA for Petitioner No. 1

MR DS VASAVADA for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 16/04/2002

ORAL JUDGEMENT

Rule. The learned counsel for the respondent waives service and at the instance of the learned counsel of both the sides, the petition was heard and finally disposed of today.

After the matter being argued at some length, part of the impugned award awarding reinstatement was agreed to be sustained and the question of backwages was sought to be left to the discretion of this Court. The learned counsel for the respondent clearly conceded that the respondent was admittedly earning Rs.22 to 25/- a day during the pendency of the proceedings, although the continuity with which such casual employment would have continued is not clear from the records. However, in view of the order regarding reinstatement being sustained and a statement being made by the petitioner that the respondent shall be reinstated with continuity of service granting the benefit of due increments in wages in calculating the current wages, the learned counsel for the respondent did not insist upon the payment of backwages.

Accordingly, the petition is partly allowed and the impugned award is modified to the extent that the respondent shall be reinstated with continuity of service and paid by way of costs a sum of Rs.1,250/-. However, the petitioner shall not be required to pay any amount by way of backwages. The respondent shall report for duty and shall be reinstated in service by the petitioner on or before 30th April, 2002. Rule is made absolute accordingly.

(D.H. Waghela, J.)

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